

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 03-3753

UNITED STATES OF AMERICA

v.

ANTHONY MARRERO,
Appellant

APPEAL FROM THE DISTRICT COURT
OF THE VIRGIN ISLANDS

D.C. Crim. No. 91-cr-00014-3

District Judge: The Honorable Raymond L. Finch, Chief Judge

Argued: May 7, 2004

Before: BARRY, AMBRO, and SMITH, Circuit Judges

(Opinion Filed: May 25, 2004)

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OPINION

BARRY, Circuit Judge

By order entered August 22, 2003, the District Court revoked the term of supervised release appellant Anthony Marrero was then serving and sentenced him to a term of imprisonment of twenty-four months. In this appeal, appellant argued that the District Court lacked power to revoke his term of supervised release because, at the time of revocation, that term had expired.¹

Because we were unable to determine from the record and the briefs of the parties whether supervised release had expired and, if so, when, counsel were directed to provide at oral argument “the dates, if any, from February 5, 1999 to August 19, 2003 during which Marrero was incarcerated and whether such period or periods of incarceration, if

¹Appellant also argued that assuming his term of supervised release had expired, the delay caused by the government in holding his revocation hearing was not reasonably necessary.

any, were ‘in connection with a conviction for a Federal, State or local crime.’ See 18 U.S.C. § 3624(e).”

At oral argument, appellant’s counsel advised the Court, and counsel for the United States did not dispute, that appellant had been incarcerated “in connection with a Federal, State or local offense” from May 12, 2001 to August 19, 2003, the date of the revocation hearing. It was, therefore, apparent that the three year term of supervised release which had been imposed on February 5, 1999 had not expired when that term was revoked because incarceration tolls a period of supervised release. The order of the District Court, entered on August 22, 2003, will, therefore, be affirmed.